



Association of Bermuda Insurers and Reinsurers

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November 8, 2006

Via E-Mail

The Honorable Julie M. Bowler
Commissioner of Insurance
State of Massachusetts
Chair, NAIC Reinsurance Task Force
One South Station 5th Floor
Boston, Massachusetts 02110-2208

Subject: ABIR Comments NAIC Reinsurance Evaluation Office October 31 REO

Dear Chair Bowler:

On behalf of the 22 members of the Association of Bermuda Insurers and Reinsurers (ABIR) we offer these comments on the October 31 document entitled "NAIC Reinsurance Evaluation Office." ABIR represents the major, international reinsurers domiciled in Bermuda which conduct an international business from their Bermuda headquarters. Our members typically operate from Bermuda with operating entities in Bermuda, Europe and the United States. Our members are all Class 4 Bermuda insurers which meet a unique and stringent set of solvency regulatory and capitalization requirements. Information about ABIR and the Bermuda Class 4 carriers is available on our website at www.ABIR.bm or www.ReinsuranceBermuda.com.

ABIR has taken no position pro or con on the discussions within the NAIC to reduce US reinsurance collateral requirements. We have been actively following the NAIC's action in this area because any change that is made can affect the competitive environment for our members. Therefore our interests are to ensure that Bermuda's highly capitalized Class 4 carriers be treated equitably so that they can compete on a level playing field with reinsurers domiciled in the United States and Europe. Most of our members have US affiliated insurance and/or reinsurance companies fully licensed and regulated in the US.

Since the time deadline is short and you have asked for comments in advance of the Nov. 8 conference call of the NAIC Reinsurance Task Force, we have chosen to make these comments in short bullet point fashion. After we obtain additional member feedback, we may supplement this statement with additional comments prior to the November 15 deadline. We invite task force members to email or call us with any questions as this work proceeds. These comments are not organized based on order of priority, but rather follow a section by section sequential review of the draft.

1. Section 3, A, XI. Reference to domiciliary regulatory standards. As a requirement of a reinsurer submitting its application, it must supply information describing regulatory standards. This section requires a reinsurer to file information that in some cases will have to be produced by the regulator, for example the regulator's "self assessment" with regard to the IAIS insurance core principles. It also requires the filing of the International Monetary Fund's Financial System Stability Assessment (FSAP) report, or any equivalent report, if that is available. *Recommendation: We would recommend adding to this paragraph a requirement for the filing submission to include the regulator's response to the FSAP (or equivalent report) as well as any update that describes significant regulatory action with regard to solvency regulation that has taken place since the FSAP (or any equivalent report) was completed. Filing of the FSAP alone would yield an incomplete and likely out of date picture of the regulatory environment.*

2. Section 3, B, 1. REO NRSRO ratings. This section creates a matrix that links the ratings of four major rating organizations. Nearly all ABIR members maintain ratings with at least two such organizations. Most reinsurers will fall into REO categories 2 and 3. REO 2 carries with it a 50% collateral requirement and REO 3 has an 80% collateral requirement. A reinsurer with an AM Best rating of A- would qualify with an REO 2 rating, but if it has an S & P rating of A+ it would drop to an REO 3 rating. By contrast a reinsurer with an AM Best rating of A- but no S & P rating would be able to maintain a REO 2 rating. We believe that the requirement in this draft that "if a reinsurer has inconsistent ratings from more than one NRSRO, the lowest shall be used" is counterproductive. We make these comments:
 - a. We are not sure that "inconsistent" ratings are the issue here, they are "different" ratings due to the different rating organization standards and practices. It is also not just a matter of timing, of changes being made by one agency being followed later by similar changes with another agency. The ratings are different, not inconsistent.
 - b. The penalty in the current provision could serve to encourage reinsurers to only seek one rating agency evaluation. We believe that is counterproductive to your purposes since it would be logical to conclude that two separate analyses by independent rating agencies should be encouraged since the process itself imposes a discipline that is consistent with your solvency regulation goals.
 - c. *Recommendation: We would recommend that the "lowest rating" standard be removed. It would be replaced with a provision that states that reinsurers should present evidence of any and all ratings received by rating agencies, all ratings would be disclosed. The reinsurer should be allowed to choose one rating that would be made part of the final submission to the REO. We note that the REO already has the authority to require additional collateral based on a review of other factors that are identified in the application process. Those other factors could be grounds for reclassification of the reinsurer downward, but the multiple rating agency so-called "inconsistent" ratings would not be grounds alone to force the reinsurer into a lower REO rating classification.*

3. Section 4,A I, i. Multiple beneficiary trust fund reinsurers. We are confused by the reference in this paragraph to "Reinsurance with an inception date on or after [effective

date] ceded to reinsurers rated by the REO, or other reinsurance ceded to reinsurers maintaining qualifying multibeneficiary trusts, (emphasis added) to the extent provided pursuant to the standards below’;”. Could you clarify what the intent is? It appears to mean that a multiple beneficiary trust fund reinsurer falls outside of the REO process, but would still operate with the benefit of reduced collateral. We don’t think that is your intent. *Recommendation: Correction of language.*

4. Generally and Section 4, B. Collateral increase proposal. The issue of imposing collateral requirements on any US reinsurer is a sensitive point that we assume will be widely commented upon. The overall affect of this REO draft seems to be to **increase** collateral requirements for non-US reinsurance groups that operate with holding companies that include a US affiliated reinsurer. We don’t think that is your intent. We would oppose such a provision for it grants a competitive advantage to a non-US reinsurer that operates without a US affiliate. We would think US regulators would want to keep US domiciled reinsurers, even if they are affiliated with non-US reinsurers. Here’s an example of the problem:
- a. A US reinsurer with a non-US parent assumes \$100 million of US liabilities. It is rated REO 2. Under current law it posts \$0 collateral, under the REO it would have to post \$50 million in collateral.
 - b. This US affiliated reinsurer retrocedes 75% of its \$100 million US liabilities to its non-US parent. Under current law that is collateralized at 100% or \$75 million. Under the REO, assuming that the parent has the same group rating as its US affiliate, it would have to post \$37.5 million in collateral.
 - c. Summary: current law, required collateral for the reinsurance group = \$75 million; under the REO proposal, required collateral for the reinsurance group = \$50 million + \$37.5 million = \$87.5 million.
 - d. *Recommendation: A provision should be added that prevents any penalty for a reinsurance group that operates with a US affiliate. The effect of the proposal as drafted would be to discourage formation of on-shore reinsurance affiliates by non-US reinsurers. We’d recommend adding a provision that exempts affiliated reinsurance transactions by REO rated reinsurers (both the US and non-US carriers would have to be REO rated) from the collateral requirements. (The US carrier’s affiliated reinsurance transaction would already be subject to US holding company act review.) If this was done, in the above example, the required group collateral would drop from \$75 million under current law to \$50 million under the REO proposal. Thus this change would be consistent with your goals of collateral reduction (even though it imposes a collateral burden on the US licensed reinsurer). For the record, we are not advocates of imposing collateral requirements on US reinsurers.*

Conclusion

We look forward to the opportunity to learn more about this draft proposal and to continue to be involved with the Reinsurance Task Force’s work.

Sincerely,

Bradley L. Kading
President and Executive Director
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